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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/554,343	12/06/2000	Konstanze Saathoff	HHI-023US	2211

7055 7590 12/13/2004

GREENBLUM & BERNSTEIN, P.L.C.  
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RESTON, VA 20191

EXAMINER
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MEISLIN, DEBRA S

ART UNIT	PAPER NUMBER
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3723

DATE MAILED: 12/13/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

09/554,343

Applicant(s)

SAATHOFF ET AL.

Examiner

Debra S Meislin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 28 July 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 1-13 and 15-20 is/are allowed.
- 6) ☒ Claim(s) 14 and 21 is/are rejected.
- 7) ☒ Claim(s) 22 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 28 July 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☐ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date \_\_\_\_\_.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

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1. Claim 14 is rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 14, "a flat" output element is not understood. As also set forth on page 8, lines 1-7 of the decision by the Board of Appeals:

— We also share the examiner's point of view that the recitation in claim 14 of "a flat output element" is not understandable. Neither appellants' underlying disclosure (specification, page 10) nor the argument advanced on appeal (brief, page 12) offers any guidance whatsoever as to a meaning that can be attributed to a "flat output element". Thus, the language at issue renders claim 14 indefinite.

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the subject matter of claim 14 must be shown or the feature(s) canceled from the claim(s). Additionally, the subject matter of claims 2-3, 7-12, and 15-16 must be shown or the feature(s) canceled from the claim(s).

Note the footnotes at the bottom of page 3 of the decision by the Board of Appeals:

<sup>2</sup> While not at issue in this appeal, as recognized by appellants (reply brief, page 6), the examiner's concern as to the drawings is sound (answer, page 5). We note that the

Note the Examiner Answer on page 5:

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The specification and drawings do not clearly define the structure of "a flat" output element.

It is noted that the drawings must show every feature of the invention specified in the claims. Appellant has failed to show the elements as set forth in claims 2-3, 7-12, and 14-16.

The specification must clearly indicate the structure of the device that is old in the art. Applicant's arguments alone are insufficient. An understanding of the invention must be ascertained from the original disclosure and not in view of arguments directed to similar cited art.

3. A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. Applicant must include marked-up drawings showing proposed changes. The objection to the drawings will not be held in abeyance. No new matter should be entered.

#### 4. INFORMATION ON HOW TO EFFECT DRAWING CHANGES

##### Replacement Drawing Sheets

Drawing changes must be made by presenting replacement figures which incorporate the desired changes and which comply with 37 CFR 1.84. An explanation of the changes made must be presented either in the drawing amendments, or remarks, section of the amendment. Any replacement drawing sheet must be identified in the top margin as "Replacement Sheet" (37 CFR 1.121(d)) and include all of the figures appearing on the immediate prior version of the sheet, even though only one figure may be amended. The figure or figure number of the amended drawing(s) must not be labeled as "amended." If the changes to the drawing figure(s) are not accepted by the examiner, applicant will be notified of any required corrective action in the next Office action. No further drawing submission will be required, unless applicant is notified.

Identifying indicia, if provided, should include the title of the invention, inventor's name, and application number, or docket number (if any) if an application number has not been assigned to the application. If this information is provided, it must be placed on the front of each sheet and centered within the top margin.

##### Annotated Drawing Sheets

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A marked-up copy of any amended drawing figure, including annotations indicating the changes made, may be submitted or required by the examiner. The annotated drawing sheets must be clearly labeled as "Annotated Marked-up Drawings" and accompany the replacement sheets.

### Timing of Corrections

Applicant is required to submit acceptable corrected drawings within the time period set in the Office action. See 37 CFR 1.85(a). Failure to take corrective action within the set period will result in ABANDONMENT of the application.

If corrected drawings are required in a Notice of Allowability (PTOL-37), the new drawings MUST be filed within the THREE MONTH shortened statutory period set for reply in the "Notice of Allowability." Extensions of time may NOT be obtained under the provisions of 37 CFR 1.136 for filing the corrected drawings after the mailing of a Notice of Allowability.

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claim 21 is rejected under 35 U.S.C. 102(b) as being clearly anticipated by Lord et al (4974475) or Anderson et al (4,993,288).

7. Claims 1-13 and 15-20 are allowed.

8. Claim 22 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

9. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP

§ 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

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A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.


10. Applicant's arguments filed July 28, 2004 have been fully considered but they are not persuasive with respect to claim 21, the objection to the drawings, and the rejection of claim 14.

Applicant's attention is directed to paragraphs 1, 2 and 6, above.

11. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Debra S Meislin whose telephone number is 571 272-4487. The examiner can normally be reached on M-F, alt. Fridays off.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Joseph Hail can be reached on 571 272-4485. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



Debra S Meislin  
Primary Examiner  
Art Unit 3723

December 7, 2004